

FRANKFORT/FRANKLIN COUNTY BOARD OF ZONING ADJUSTMENTS
July 10, 2007

Vice Chairman Mitch Buchanan called the meeting to order at 5:30 p.m.
Recording Secretary Dawn McDonald called the roll.

MEMBERS PRESENT:

Mitch Buchanan
Barry Holder, Jr.
Paul Looney
Joyce Honaker
David Jones

MEMBERS ABSENT:

Kathy Peale

Chairman Mitch Buchanan called the meeting to order, introduced staff and swore in the staff and audience.

The first item of business was approval of the June 5, 2007 minutes. Ms. Honaker made a motion to approve the minutes. The motion was seconded by Mr. Looney and carried unanimously.

Mr. Buchanan made a motion to reverse the agenda items and here item # 2 first then hear item # 1. The motion was seconded by Mr. Holder and carried unanimously.

The first item of business on the agenda was a request from Jason Sherrow Construction, LLC for a variance to Article 12.061 to decrease the minimum separation between two drives on the same property from 25-feet to 17-feet for a single family residence located at 117 North Ridge Court, zoned "RB", Residential "B" District.

Justin Evilsizor, City of Frankfort Planner was present for the staff report. Mr. Evilsizor went over a slide show detailing the property and explaining the request. He said the city only permits double driveways on the same property if they meet the required spacing of 25-feet. The request before the board shows only a 17-foot space between drives and based on Article 18, staff was unable to find positive findings for A, B, C, or D, therefore staff recommended denial of the request. Mr. Looney asked if there were other lots with the same type of driveway. Mr. Evilsizor replied that he saw one other lot with the same style driveway but he thought it met code. Mr. Buchanan asked if the number of bedrooms are considered for drives. Mr. Evilsizor responded that in apartments the number of bedrooms is considered but for single family residences, they are required two off street parking spaces. Ms. Honaker asked if off street parking was permitted in the neighborhood. Mr. Evilsizor replied that he didn't know for sure but that he didn't remember seeing any signs to prohibit parking on the street. He mentioned that they are waiting to resolve this issue before issuing a certificate of occupancy.

Jason Sherrow, 101 Virginia Court, Georgetown, KY was present and stated that he had nothing to add but was available for questions. Mr. Buchanan stated that several criteria are needed before they can approve. Mr. Sherrow said that parking cars in the cul-de-sac could make it hard for school buses to turn around. Mr. Holder asked if the change had been made after approval of the permit. Mr. Sherrow replied yes, the house at that time had not been sold and when the house sold, the owner wanted a circle driveway. The owner Dennis Kush of 117 North Ridge was present and added that backing out/parking on the street, blocks mail and sanitation. He went on to say that the additional drive will be used mainly as a parking pad, pulling in on the short side and leaving via the normal driveway.

The board had discussion concerning the findings. Mr. Buchanan made a motion that the request of Jason Sherrow Construction, LLC for a variance to decrease the minimum separation between two drives be denied. The motion was seconded by Mr. Holder and carried unanimously.

The next item of business was a request from George K. O'Mara for a variance to Article 4, Section 4.134 Bulk Density and Height, to allow a reduction in the front yard setback (east property line) from 25-feet to 9-feet for the property located at 307 Signal Ridge Road, zoned "RB" Residential "B" Density.

Robert Hewitt, Franklin County Planning Director was present for the report. Mr. Hewitt stated that the item before the board was a variance as it relates to an addition on the side of the home. The addition received administrative approval in 2004. It appears that the permit had been issued assuming the property line was a side property line when in fact a Right-Of-Way had been platted by the developer, creating a corner lot and therefore should have had a 25 foot setback. Mr. Hewitt stated that as indicated in the staff report, since administrative approval had been granted that he did not feel as though the issuance of a variance was required in this case. The administrative approval stands and the County Planning and Building Code Office has no intent of revoking that approval but the applicant did submit an application therefore he forwarded it on to the board for consideration and was available for questions. Mr. Buchanan asked if assuming they sold the property at some point, would that have any affect with the city since it has been approved administratively. Mr. Hewitt replied that in his opinion it would not cause a problem, the Certificate of Occupancy has been issued and the file has been closed and they won't go backwards on that.

Mr. Buchanan asked Mr. Logan if since the staff was saying that a variance was not needed, should we for the benefit of the owner of the property grant a variance. Mr. Logan replied that at this point it has already been approved, the file is closed and unless the city has filed some sort of lien or encumbrance on the property in the County Clerks Office of record then there is nothing that is going to affect the title to the property. He went on to say that he had not completed a title search on the property to see if one had been filed but unless one has been filed by the city then nothing is going to impede the title to the property. The Board can do something more official if they see fit, but then they will need to make the appropriate findings. After discussion with Mr.

Logan concerning this item, Ms. Honaker asked if they could make a motion that since administrative approval had been granted then there is no variance required. Mr. Logan replied he thought that would be appropriate.

The applicant George K. O'mara of 307 Signal Ridge was present. Mr. O'mara stated that he did what he was supposed to do and applied for a permit and received approval therefore he did not create this situation. He is concerned about whether or not he has insurability in his ability to maintain a mortgage on this property. He had been offered during this process a letter in his file but he wasn't sure that would be sufficient. He stated that he wasn't aware there was an issue but some third party brought the problem to life. He doesn't want to change anything he just wants to rectify a situation that he didn't create and one that could come back at a later date and cause him considerable harm. He stated that there are clauses in mortgages that say if you do anything to damage the property, they can demand payment. He is concerned also that he may have problems selling the property and feels like he needs approval from the board that says this is okay. Mr. Buchanan asked if he currently had a mortgage and valid title. The applicant replied yes. Mr. Buchanan asked Mr. Logan if this would even show up in the documents at the courthouse. Mr. Logan replied that this would not show up and the only potential problem he could see was if there was some kind of lien or defects on the title. Mr. Buchanan stated that they have to find four positive findings for criteria and that finding something to make the property unique that does not exist on other properties could be difficult and asked the applicant if there was anything unique about his property that wasn't mentioned in the application. Mr. O'mara stated that he thinks the uniqueness is the situation itself.

Charlie Jones was present on behalf of J.W. Luttrell. Mr. Jones stated that Mr. Luttrell owns the property directly behind the subject property as well as the 50 foot strip of land next to the subject property. Mr. Jones stated that there will be a road there in the future and that's the only way to develop the property. They feel it necessary to come before the board, so the board knows of the road, and that the granting of a variance to allow the home to remain doesn't jeopardize Mr. Luttrell plans to build the road there in the future. Mr. Jones stated that they feel like it's necessary for the board to act on this because 1) they have a proper application before them and 2) they need to establish a setback for the future, granting a variance so that in the future there is nothing else that infringes the setback. They propose that the setback be 25' and that the variance be granted at 9'. After discussion Ms. Honaker made a motion that the Board finds that since administrative approval was granted for the addition, the board does not find that a variance is required and dismisses the case. The motion was seconded by Mr. Holder and carried unanimously.

Mr. Holder made a motion to adjourn. The motion was seconded by Mr. Jones and carried unanimously.

Adjourn